

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

DEEP NINES, INC.

Plaintiff,

v.

MCAFEE, INC.

Defendant.

9:06-cv-174-RC

JURY DEMANDED

JOINT AGREED MOTION TO DISMISS WITH PREJUDICE

Come now Plaintiff Deep Nines, Inc. (“Deep Nines”) and Defendant McAfee, Inc. (“McAfee”) and moves this Court for an order dismissing with prejudice all claims, counterclaims, and causes of action whatsoever asserted in this matter pursuant to FED. R. Civ. P. 41. Specifically, Deep Nines and McAfee have resolved the disputes between them and now seek to have the above-entitled action and all claims made therein dismissed with prejudice. The parties further request that each party be ordered to bear their own costs and attorneys fees.

WHEREFORE, Deep Nines and McAfee respectfully pray that the Court order all claims, counterclaims and causes of action asserted in this matter are dismissed with prejudice to refilling of the same, that all costs and fees shall be borne by the party incurring the same and for such other and further relief to which the parties may be justly entitled.

Dated: September 8, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by Electronic Mail.

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